

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRETT DOYLE,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

Case No. 3:19-cv-00725-MMD-CSD

ORDER

Pro se Plaintiff Brett Doyle, who is incarcerated at Lovelock Correctional Center, brings this action against Defendants Scott Davis, Renee Baker, and Harold Wickham under 42 U.S.C. § 1983. (ECF No. 7.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 49), recommending that the Court deny Defendants’ motion for summary judgment (ECF No. 40 (“Motion”)), and deny Doyle’s request (ECF No. 42) to strike Defendants’ Motion. Objections to the R&R were due October 26, 2022. To date, neither party has objected to the R&R. For this reason, and as explained below, the Court adopts the R&R in full and will deny Defendants’ Motion and deny Doyle’s request.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory

1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there were no objections, the Court need not conduct de novo review,
4 and is satisfied that Judge Denney did not clearly err. To start, Judge Denney correctly
5 found that summary judgment should be denied as to the First Amendment Free Exercise
6 Clause claim. (ECF No. 49 at 9.) This is because there are genuine disputes of material
7 facts regarding whether Defendants substantially burdened Doyle’s religious practice,
8 and whether Defendants’ denial of Doyle’s requests to observe holy days/fasts on
9 particular dates is reasonably related to safety and security interests. (*Id.*) See *Jones v.*
10 *Williams*, 791 F.3d 1023, 1032 (9th Cir. 2015) (citations omitted); *Jones v. Slade*, 23 F.4th
11 1134, 1144 (9th Cir. 2022) (citation omitted).

12 Second, Judge Denney properly found that summary judgment should be denied
13 as to the Establishment Clause claim. (*Id.* at 11.) This is because there is a genuine
14 dispute of material fact regarding whether Defendants favored Orthodox/Rabbinical
15 Judaism over Messianic Judaism and other religions. (*Id.*) See *Hartmann v. Cal. Dep’t of*
16 *Corr. & Rehab.*, 707 F.3d 1114, 1125 (9th Cir. 2013) (citation omitted). Next, Judge
17 Denney correctly concluded that Defendants are not entitled to qualified immunity
18 because a reasonable factfinder could find that Defendants violated the Free Exercise
19 Clause and the Establishment Clause. (*Id.* at 12.) See *Gordon v. Cnty. of Orange*, 6 F.4th
20 961, 967-68 (9th Cir. 2021) (citations omitted). Finally, Judge Denney properly found that
21 Doyle’s request (ECF No. 42) to “strike” Defendants’ Motion should be denied, because
22 the correct procedure is to ask for the denial of the Motion. (ECF No. 49 at 1.) The Court
23 therefore adopts Judge Denney’s R&R in full.

24 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF
25 No. 49) is accepted and adopted in full.

26 It is further ordered that Defendants’ motion for summary judgment (ECF No. 40)
27 is denied.

1 It is further ordered that Doyle's request (ECF No. 42) to strike Defendants' motion
2 for summary judgment is denied.

3 It is further ordered that under LR 16-5, the Court finds that it is appropriate to refer
4 this case to Judge Denney to conduct a settlement conference. If the parties do not settle,
5 the Joint Pretrial Order is due within 30 days of the date the settlement conference is
6 held.

7 DATED THIS 1st Day of November 2022.

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10 MIRANDA M. DU
11 CHIEF UNITED STATES DISTRICT JUDGE
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